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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/653,039	09/01/2000	David J. Pawson	50277-1533	6577

7590   07/26/2006

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EXAMINER
OSMAN, RAMY M

ART UNIT	PAPER NUMBER
2157	

DATE MAILED: 07/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

/

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/653,039	PAWSON, DAVID J.
	Examiner	Art Unit	
	Ramy M. Osman	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *5/10/2006*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *53-82* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *53-82* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1.   This communication is responsive to amendments filed on May 10, 2006 where applicant

amended claims 53,59,61,65,71,79-81 and added new claim 82. Claims 53-82 are pending.

Response to Arguments

2.   Applicant's arguments, filed 5/10/2006, with respect to the rejection(s) of claim(s) 53-

56,61-63,65,71-74 and 79-81 under 102 (b) as being anticipated by Forler et al (US Patent No

5,327,176) have been fully considered and are persuasive. Therefore, the rejection has been

withdrawn. However, applicants claim language remains broad, and upon further consideration

a new ground(s) of rejection is made in view of Downing et al (US Patent No 6,373,855).

Claim Objections

3.   Claim 61 objected to because of the following informalities: On line 12 change "maybe"

to "may_be" (put a space between the words). Appropriate correction is required.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
patent by another filed in the United States before the invention by the applicant for patent, except that an

international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 53-56,65,71-74,81 and 82 rejected under 35 U.S.C. 102(e) as being anticipated by Downing et al (US Patent No 6,373,855).**

6. In reference to claims 53,65,71,79,81 and 82, Downing teaches a method, computer program product and a stream server system respectively, of operating a stream server, the stream server causing data streams to be provided from one or more stored audio/visual files, the method comprising:

receiving a signal from a client device, said signal including an indication of a client requested presentation action that, when put into effect by the stream server, involves reducing a data rate of a first data stream being sent from the stream server to the client device or eliminating the transmission of the first data stream to the client device, the first data stream including data of a first type (column 5 lines 39-53);

implementing the client requested presentation action, said act of implementing the client requested presentation action including reducing the data rate of the first data stream or eliminating the transmission of the first data stream to the client device (column 4 lines 34-45); and

determining an amount that a data rate of a second data stream including data of a second type may be increased as a result of an effect on transmission bandwidth corresponding to the reduction in the data rate of the first data stream or the elimination of the first data stream (column 5 lines 43-46).

7. In reference to claims 54 and 72, Downing teaches the method and computer program product of claims 53 and 71 respectively, wherein said first type of data is audio data (column 4

lines 34-67); and said indication comprises an indication of a client requested action to reduce or

eliminate the transmission of audio data to the client device (column 5 lines 43-46).

8.   In reference to claims 55 and 73, Downing teaches the method and computer program

product of claims 54 and 72 respectively, wherein said indication comprises: an indication that

audio be muted (column 5 lines 43-46).

9.   In reference to claims 56 and 74, Downing teaches the method and computer program

product of claims 53 and 71 respectively, wherein the act of determining an amount that a data

rate of a second data stream may be increased comprises: determining an amount of bandwidth

that is freed up by reducing the data rate of the first data stream or eliminating the first data

stream (column 5 lines 39-53).

Claim Rejections - 35 USC § 103

10.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

11.   Claims 57-60,67-70,75-78 rejected under 35 U.S.C. 103(a) as being unpatentable

over Downing et al (US Patent No 6,373,855) in view of Safadi (US Patent No 6,487,721).

12.   In reference to claim to 57,67 and 75, Downing teaches the method and computer

program product of claims 56,66 and 71 respectively. Downing fails to explicitly teach further

comprising: including both said first and second streams in a Single Program Transport Stream

which is sent to said client device. However, Safadi teaches encoding analog programs to

provide single program transport streams (SPTS) for the purpose of digitizing and encoding

according to digital standards and transmission of the SPTS to recipients(column 4 lines 45-55

and column 6 lines 15-50).

It would have been obvious for one of ordinary skill in the art to modify Downing by

including both said first and second streams in a Single Program Transport Stream which is sent

to said client device as per the teachings of Safadi for the purpose of digitizing and encoding

according to digital standards for transmission.

13.   In reference to claims to 58,68 and 76, Downing teaches the method and computer

program product of claims 53,65 and 71 respectively. Downing fails to explicitly teach, further

comprising: including both said first and second data streams in different Single Program

Transport Streams, each of said different Single Program Streams being part of a Multiple

Program Transport Stream which includes both of said different Single Program Transport

Streams. However, Safadi teaches multiplexing single program transport streams (SPTS's) into a

multi-program transport stream (MPTS) for the purpose of digitizing and encoding according to

digital standards and transmission to recipients (column 4 lines 45-67 and column 5 lines 30-50).

It would have been obvious for one of ordinary skill in the art to modify Downing by

including both said first and second data streams in different Single Program Transport Streams,

each of said different Single Program Streams being part of a Multiple Program Transport

Stream which includes both of said different Single Program Transport Streams as per the

teachings of Safadi for the purpose of digitizing and encoding according to digital standards for

transmission.

14.   In reference to claims to 59,70 and 77, Downing teaches the method and computer

program product of claims 53,65 and 71 respectively. Although Downing does teach filtering a

stream so as to reduce or eliminate the data rate of a first stream (see column 5 lines 40-55),

Downing fails to explicitly teach, wherein the act of reducing the data rate of the first data stream

or eliminating the transmission of the first data stream to the client device includes: providing a

stream of packets as part of a packet flow to a multiplexing device, said stream of packets

including data packets which can be sent to the client device in said first data stream; operating

the multiplexer to perform a filtering operation on said stream of packets to control the amount

of data included in the first data stream; and operating the multiplexer to output said first data

stream. However, Safadi teaches providing a stream to a multiplexer, modifying a stream upon

receiving an instruction to do so, and multiplexing the stream to perform a filtering operation of

adding content to the stream (column 4 lines 45-67 and column 5 lines 30-50).

It would have been obvious for one of ordinary skill in the art to modify Downing by

providing a stream of packets as part of a packet flow to a multiplexing device, said stream of

packets including data packets which can be sent to the client device in said first data stream;

operating the multiplexer to perform a filtering operation on said stream of packets to control the

amount of data included in the first data stream; and operating the multiplexer to output said first

data stream as per the teachings of Safadi for the purpose of digitizing and encoding a modified

stream according to digital standards for transmission to the recipient.

15.   In reference to claims 60,69 and 78, Downing teaches the method and computer program

product of claims 53,65 and 71 respectively. Downing fails to explicitly teach providing the

second data stream to a device other than the client device. However, Safadi teaches where the

streams are sent to multiple recipients so that multiple clients can all view, hear, or read the

additional content added to the stream (column 7 lines 15-67).

It would have been obvious for one of ordinary skill in the art to modify Downing by

providing the second data stream to a device other than the client device as per the teachings of

Safadi so that multiple recipients can all receive the modified stream.

16.   **Claims 61-63,80 rejected under 35 U.S.C. 103(a) as being unpatentable over**

Downing et al (US Patent No 6,373,855) in view of Fitzgerald et al (US Patent No

6,611,503).

17.   In reference to claims 61 and 80, Downing teaches a method, computer program product

and a stream server system respectively, of operating a stream server, the stream server causing

data streams to be provided from one or more stored audio/visual files, the method comprising:

the stream server providing to a client device a first data stream and a second data stream;

receiving a signal from the client device, said signal including an indication of a client

requested presentation action that, when put into effect by the stream server, involves

reducing a data rate of a first data stream being sent from the stream server to the client

device or eliminating the transmission of the first data stream to the client device (column 5 lines

39-53);

implementing the client requested presentation action, said act of implementing the client

requested presentation action including reducing the data rate of the first data stream or

eliminating the transmission of the first data stream to the client device (column 4 lines 34-45);

and

Downing fails to explicitly teach determining whether a third data stream maybe streamed as a result of an effect on transmission bandwidth corresponding to the reduction in the data rate of the first data stream or the elimination of the first data stream. However, Fitzgeral teaches dynamically allocating a third data stream as a result of reduction in data rate of first stream within a multimedia conferencing service for the purpose of maximizing bandwidth use during a multimedia conference (column 1 lines 5-15 & 35-67, column 5 lines 47-67 and column 6 lines 10-67).

It would have been obvious for one of ordinary kill in the art to modify Downing by determining whether a third data stream maybe streamed as a result of an effect on transmission bandwidth corresponding to the reduction in the data rate of the first data stream or the elimination of the first data stream as per the teachings of Fitzgerald for the purpose of maximizing bandwidth use during a multimedia conference.

18.   In reference to claim 62, Downing teaches the method of claim 61, wherein said first type of data is audio data (column 4 lines 34-67); and said indication comprises an indication of a client requested action to reduce or eliminate the transmission of audio data to the client device (column 5 lines 43-46).

19.   In reference to claim 63, Downing teaches the method of claim 62, wherein said indication comprises: an indication that audio be muted (column 5 lines 43-46).

20.   Claims 64 rejected under 35 U.S.C. 103(a) as being unpatentable over Downing et al (US Patent No 6,373,855) in view of Fitzgerald et al (US Patent No 6,611,503) in further view of Safadi (US Patent No 6,487,721).

21.   In reference to claim 64, Downing teaches the method of claim 61. Downing fails to

explicitly teach providing the second data stream to a device other than the client device.

However, Safadi teaches where the streams are sent to multiple recipients (column 7 lines 15-

67).

It would have been obvious for one of ordinary skill in the art to modify Downing by

providing the second data stream to a device other than the client device as per the teachings of

Safadi so that multiple clients can all view, hear, or read the additional content added to the

stream.

Conclusion

22.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure:

Patent No 6,665,002, Liu teaches a method of real-time audio/video quality adjustment.

23.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

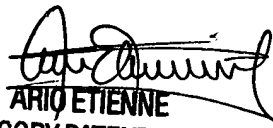will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Ramy M. Osman whose telephone number is (571) 272-4008.

The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RMO
July 14, 2006

ARIO ETIENNE
SUPERVISORY PATENT EXAMINER